THE

Great and Popular.

OBJECTION

Againſt the *Repeal* of the

Penal Laws & Teſts

BRIEFLY

Stated and Conſider'd,

AND WHICH

May ſerve for Anſwer to ſeveral late PAMPHLETS upon that *Subject.*

By a Friend to Liberty for Liberties ſake

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THE Great and Popular OBJECTION

Againſt the *Repeal* of the

Penal Laws & Teſts, &c.

IF the *Conſequences* that are imagin'd to follow the *Repeal* of the *Penal Statutes* and *Teſts* (and which ſo many give for the reaſon of their diſlike to the Liberty that is ſought by it) were indeed ſo *Terrible* as they are induſtriouſly repreſented, I ſhould readily fall in with the common Jealouſie, and help to augment the number of thoſe that are for *their* Continuance; but when I conſider how long our Government was *Happy* without *Them*, how much of *Heat* and *Partialty* prevail'd in their Conſtitution, and how *troubleſome* and *impracticable* their Execution are, and that, in our preſent

Circumſtances, *They* appear a plain *Barriere* to our Happineſs, inſtead of a *Bulwark* to our Religion, I cannot but lament the misfortune of the *Publick*, that thoſe Gentlemen are yet under the fatal miſtake of thinking Them neceſſary to our Safety, that with more Reaſon and Charity, in my opinion, ſhould *Endeavour to ſave us* from the Inconveniences of them.

For the Queſtion being gain'd againſt *Coertion* in Religion, and the impiety & impolity of Perſecution, agreed on all hands, all that is ſaid by the moſt averſe to the *extent of the Repeal* deſired, iſſues here, *If the* Papiſts *ſhould happen to have* Power *or* Eaſe, *they are ſure to uſe it to the prejudice of the reſt, and therefore it is the Intereſt of the reſt to oppoſe all their attempts to get it.* The Conſequence of which is this, *It were better the Power of Perſecution reſted where it is, then to come into hands that would uſe it more Rigorouſly.* I ſay, All Arts and Rhetorical Declamations ſet aſide, This is the *Center* and *Subſtance* of all that's ſaid, by Any Body, againſt the Repeal of the *Penal Laws*, and more eſpecially the *Teſts*: And to this I would modeſtly offer what follows.

I can by no means imagin there ſhould be ſo much

much *Danger* where there is ſo little *Truſt*: indeed none: And where one does not *Truſt* one cannot be *Deceived*: Now there is no *Truſt*, where there is a *Law* that puts all *Parties* out of the *Power* of one another: For therefore is a Law deſired, that the *hazard of Truſting* may be out of Doors: And as this Law may be *fram'd*, I humbly conceive, it will not be impoſſible to ſecure every Party from the bigottry of the reſt, elſe, I muſt acknowledge, nothing will ſave us from the miſchief of *Relapſes*. And whatever may be ſaid againſt a Legal Security now, is as ſtrong and reaſonable againſt the hopes of any, whoever has the Chair: For *Ambition*, we ſee, is but too apt to creep into all Parties, and worldly Dominion has been an old and powerful Baite: If Law cannot ſecure us againſt it, we ſhall ever be to ſeek for the aſſurance we deſire in this World. It will yet be ſaid, *That the beſt Law Men can make, is nothing without* Execution, *and* That *being in the Power of* Thoſe *whoſe Principles or Intereſts may lead them to Evade or Pervert it, the Inſecurity is the ſame*; yet with their leave that think ſo, it is one thing to *diſpence* with a Penal Law againſt a thing, *not evil in it ſelf*, and

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another to violate a Law of common Right and Safety, *which is evil in it ſelf*; for this were both to *Repeal* and *Make* Laws without a Parliament, which the *Judges* of no Raign have ever attempted to deliver for *Law*.

If the Law propos'd, Repeal Penal Laws for Religion (and ſurely 'tis propos'd for that end) the Prince of himſelf *cannot Enact a Penal Law to hurt any body*, whatever be his Religion, and we are ſo far ſafe from the *Miſcheif* of Perſecution, tho our ſecurity went no farther. But that we ſhould be *leſs* ſafe, becauſe the King, we ſo much Fear, is ready to *Conſent to a* GREAT CHARTER for *Liberty of Conſcience*, by which, it ſhall be *Declared the* RIGHT *of Mankind to make a free and open choice and profeſſion of Faith and Worſhip towards GOD*, and that any Conſtraint or Interruption upon that Freedom, is *Impiety*, and an *Evil in it ſelf*, and that Law, therefore *Indiſpenſible*, Is, I muſt confeſs, a Notion very Extraordinary. However, It is not hard to Execute a Law, when it is beſt Executed by *doing nothing*, for letting men alone complies beſt with ſuch an One, and the Common Law ſecures them,

them, as well as this, from thoſe that meddle with them.

I know it is further Objected, *that tho this were done, it would not reſt here, A Parliament might quickly be* Packt *to over-throw this Eſtabliſhment, and then we ſhould be all ruin'd; for we ſhould not only have Laws of the ſevereſt Nature, but force to execute them.* But as Grave as the Objection looks, permit me to ſay, there is more of Art then Truth or Force in it: For don't we ſee that *Wagers* are every where laying by the preſent Enemies of Liberty, *That the King can't, even with the help of his Diſſenters, get a Parliament that will Repeal the Penal Laws and Teſts*, and yet that they ſhould pretend to fear he may *get One* to Repeal Liberty of Conſcience, and Enact the Bloodieſt Laws in lieu of it (to which to be ſure the Diſſenters will never aſſiſt) is a contradiction, like that of *Magnifying* the Prerogative, and *Rayling* at the Declaration, *Crying down* Common Wealths Men, and *Oppoſing* the Monarchy conſtantly with their Arguments; *Fighting* againſt the diſtinction of the Natural and Political Capacity of the King, and *making* it every day to ſerve their own turn,

and

and upon the worſt terms too, *Perſecution*, I mean. But waving the *Humour*, let us examine the *Fear*: In my opinion 'tis Groundleſs; for ſince their Maſter-piece, *the Letter to a Diſſenter* tells us, *that there can be no danger of the Bet, where the Odds are ſo great as Two Hundred to One*, we muſt conclude that Objection is of no weight againſt our Liberty: For Number being the *Natural* Power of a Kingdom, the *Artificial* (which is the Executive part of the *Government*) muſt needs move *heavily* and *dangerouſly* when it works againſt it.

But if a *Law* be no ſecurity, becauſe of the fear of a Packt Parliament, and *Force* to back it, what ſecurity, after all, can the *Penal Statutes and Teſts be?* are they any more then *Law?* If it be ſaid, they *caution and awe the Roman Catholicks*. I ſay the *Violation* of a Great Charter for Liberty of Conſcience will do it much more, becauſe the Penalty may be Greater, and *better fixt and applyed*. And ſince we only fear the *Repeal* of the One by a Packt Parliament, as well as the Other, the Authority which aboliſhes either, *is equally Invalid*, and therefore the *Caution* and *Fear* of Violating the one, muſt needs be

be as Great as of Overthrowing the other.

This would be leſs difficult to us to apprehend If we made the equal Reflections that becom our preſent Condition. We look on *France* till we frighten our ſelves from the beſt means of our worldly Happineſs, but will not look at home upon greater Cruelties, if we conſider theirs were exerciſed againſt thoſe of another Religion, but ours upon the People of our own; tho when we obſerve their Conduct elſewhere, it is eaſie to ſee, it muſt have ſomething very particular in it. But at the ſame time we will take no notice of the greateſt Tranquility in *Germany* and *Switzerland* under a *compleat* Liberty.

Is this any thing but the *Fruit* of Law, The *Agreement* of Princes and States, The *Great Charter* of thoſe Countries inviolably kept theſe *forty years*, The *Thing* his Majeſty, with ſo much Zeal and Goodneſs preſſes to eſtabliſh in his Dominions? Why then may not that be done here that has been ſo happily acted elſewhere? Are our *Papiſts* and *Proteſtants* worſe here then there? Or are our Differences greater? Or are our Numbers more dangerouſly un-

equal, that we dare not truſt a Law that others in our very Circumſtances are ſo happy under? They don't only endure one anothers Religion, but *take their Turns the ſame Days in the ſame Churches or Places for Divine Worſhip*; and will not the *ſame Kingdom* ſerve us? we muſt then have the worſt of Natures, or be the worſe for our Religion. And tho many good reaſons have been given, and may be elſewhere in evidence of this *Notion*, I will venture to offer a few at this time that never ſaw Light yet, that I know of, and which may happen to give ſome, to thoſe that labour under the disbelief of it.

I ſay then, a GREAT CHARTER for *Liberty of Conſcience*, to be *made* and *kept*, is not only the true Intereſt of the *Roman Catholicks*, but they think ſo, becauſe *they muſt think ſo*: For if the Deſtruction of Proteſtancy, by a way of Violence, had been their *Project*, as much as it is our *Fear*, they had but one way in the World to have brought it to paſs, and that was, *to have made the utmoſt uſe of the* Church of Englands *Penal Laws, which they found ready to their Hands, for the Deſtruction of the Proteſtant Diſſenters*,

Diſſenters, and to which ſhe could not refuſe her aſſiſtance, upon her principles of Obedience, if there were no Inclination left in her to that Fierce and Inhumane chaſe. By this, one Party of Proteſtants, had been eaſily made the *Means* of the others *Extirpation*, and how far *Pleaſures*, *Honours*, *Offices* and *Fear* would have gone to have made an entire Conqueſt, eaſie upon her, is not the hardeſt thing in the World to apprehend, when the Bodies of her Diſſenters had been thus cruelly *diſſolved* by her. And if this have any ſenſe in it, we muſt conclude, that *delivering* one Party of Proteſtants from the *Rage* and *Power* of the other, cannot be a way to bring in Popery. I own, it may affect the preſent *Eccleſiaſtical Policy* of the Church of *England*, but I never took that for Proteſtancy: On the contrary, it has evidently weaken'd the better part of the Proteſtant Intereſt in General, in theſe Kingdoms, ever ſince the Reformation. But beſides this, 'tis one thing to *Conſtrain* a Law from the Prince, and another to have it *offer'd* by the Prince: The one, to be ſure, he thinks againſt his Intereſt, and the other he takes to be as certainly for it. And if he thinks it is

his Intereſt to preſerve ſuch a Law, we are ſure of our Safety by it. That which moves him to it, muſt oblige him to maintain it; and if he does not heartily intend to ſupport this Liberty, his giving it, muſt needs increaſe the Power and Intereſt he would ſuppreſs: An *Error* too groſs to be made with ſo much *Preparation and Art*. Nor is this all, in my opinion it is much more reaſonable to believe that a *Law* for Liberty of Conſcience ſhould preſerve us againſt the thing we apprehend ſo much, *viz. Popery*, becauſe 'tis eaſier to fall from one *Extream* to another, then from a *Mean* to an Extream: And 'tis certain, there are more Parties concern'd to ſupport ſuch a Law for Liberty, then to maintain thoſe of Severity; for the Church of *England* only appears to uphold theſe, but all Parties beſides agree to maintain That. And if it was the Intereſt of the *Roman Catholicks* to divide the Diſſenters from the Church of *England*, to be ſure *they cannot think it ſafe to unite Them*: They have divided Them by the Liberty, But any attempts to take it away *will infallibly joyn them*. And when I conſider how much more the Roman Catholicks will in all probability

probability want Liberty in after Raigns, then the Diſſenters in this, I am alſo led to Conclude, that they are not ſo ſecure in the *Repeal* of the Penal Laws and Teſts themſelves, as in their own *Moderation* in the uſe of the Liberty that follows: For a Parliament in after Raigns may eaſily return them, and worſe, if that can be, and will certainly do it, if they uſe their preſent opportunity too *Eagrly* and *Partially*; but no Parliament will ever think ſo harſh a Conſtitution fit to be reviv'd, when the Moderation of the Gentlemen againſt whom it was made, hath prov'd it Uſeleſs, Unreaſonable and Unſafe. This conſideration is a reciprocal Caution to Us, not to refuſe them the Rights of Engliſh Men, and to Them, not to miſ-uſe them. And ſince hitherto we ſeem not ſo angry at the Liberty, as at the *Manner* of its being granted; if we are ſincere in this, we cannot refuſe the King in our *own way*, I mean, *by Law*. And in my Opinion, 'tis a point gain'd, not to have this eaſe *Precarious* from the Crown, as well as that it ſhews the Kings *ſincerity* beyond a doubt, that he is Solicitous to aſſure ſo great a Good to us in our *own method*.

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Let it not then be thought a Crime, that he does ſo, or that he takes the next and plaineſt ways to *diſcriminate* Perſons for that end; for if the Conſequence of his Endeavours were to ruin others for a Party, it might be thought *Packing* indeed; but when it is to *open Encloſures* and Level Intereſts, and by *Law*, to ſecure Them from the *Ambition* of one another, it ſeems to me to be *Unpacking for the Good of the Whole, that which hath been ſo long Packt for the ſole Good of a Party.* And truly if we will yet *ſcruple* the Sincerity of the Prince, I know not an eaſier and better way to aſſure our ſelves, then by chuſing ſuch Perſons to ſerve in Parliament, whoſe Love and Sincerity for this Liberty we have the greateſt Confidence in; For as that will certainly help to facilitate the Work, ſo where two Parties ſeem to conſpire one end, nothing diſcovers the Inſincerity of one ſide, like the Truth and Integrity of the other in preſerving it. Let us not then diſlike Liberty in the Kings way, and refuſe it in our own, *becauſe he would make it his*; for that would juſtly queſtion our Truth and Charity, without which, our pretence of Religion or Safety is vain.

We

We have heard it ſaid, *that the Perſecution of the laſt Raign came from the* Papiſts, *and therefore we cannot expect they ſhould be ſincere for Liberty in this*; but if that were true, (tho it could not be the *Roman Catholicks* that forc'd the late King to *cancel* his *Declaration* for Liberty, or that *couzn'd* the Diſſenters of a Law for it) yet there is this uſe to be made of the *trick*, that now the *Roman Catholicks* are for Liberty, the *Church of England* cannot, with any credit, be againſt it.

On the contrary, it ſhows, if they did *Move* thoſe Storms of Perſecution, it was to conſtrain the Diſſenters to *joyn* with them in the *Repeal* of the Laws that rais'd Them, that ſo they might be allow'd to *ſhare* in the Calm: People are moſt apt to ſee the Neceſſity and Benefit of Liberty by the want of it.

It is a Misfortune to be lamented, the *Church of England* ſhould always be againſt Liberty, *when the Court is for it*, becauſe the *Court*, in her opinion, is not Sincere; when at the ſame time, ſhe knows, it is at no time to be had *without them*: A way for poor Diſſenters, never to hope for ſuch a thing as Liberty of Conſcience at her hands: For without offering any Violence to the

the rules of Charity, ſhe ſeems to excuſe her *unwillingneſs* by their *Inſincerity*. But with her favour, *They muſt be ſincere when their Intereſt will have them ſo.* And tho it is Imagin'd the Diſſenter has no other bottom for his Confidence and Conjunction then the *Roman Catholicks Faith* and *Truth*, 'tis too mean an Inſinuation againſt his underſtanding, that I aſſure that Author is yet Good and Jealous enough, not to depend upon either the *Councel of Trent*, or the *Thirty Nine Articles* for his ſafety. By no means; thoſe *Spiritual Mortgages*, Folks give of their Souls, are too uncertain ſecurities about worldly Matters, unleſs Men had, at leaſt, a better Practice. Nothing, humanely ſpeaking, fixes any Man like his Intereſt; And tho this Agreement were only *Hobſon*'s choice in *Roman Catholick* and *Diſſenter*, the ſecurity is not the leſs: For what-ever be the Morality of any Party, if I am ſure of them by the ſide of *Intereſt* and *Neceſſity*, I will never ſeek or value an *Enſurance* by Oaths and Teſts. *Intereſt* is the choice Men Naturally make, and *Neceſſity* compels Submiſſion from the unhappy Subjects of her Power.

And tho ſome do Inſinuate that better terms

are

are to be hop'd from the Church of *England* hereafter, then now from the *Roman Catholicks*, I take leave to ſay, that it is an *unwarrantable* uſe of Providence, for them to neglect the preſent *Certain Overtures* (tho they were the effects of Neceſſity) out of hopes the Church of *England* will uſe them better, when ſhe has Power, *not to do it, and not to care*: when all Parties ſhow their abuſe of Power in their turns, 'tis reaſon enough to embrace the Benefit of Neceſſity from the firſt that offers: And nothing elſe, I fear, moves the Church of *England* to *promiſe*; And if ſo great a number may lie under ſuch a Neceſſity, a leſs number cannot but be under a *greater*, and that I take to be the *Roman Catholicks Caſe*, and our *Aſſurance*.

If the Church of *England* could ſecure the Diſſenters without that compliance ſhe fears, 'twere ſomething, if not, they are under an equal neceſſity to accept what the *Roman Catholiks* are under to offer: And for this reaſon, I cannot but think her joyning in the Liberty more reaſonable, then their refuſing it for her ſake. If ſhe affects an Union, why ſhould ſhe uphold the *Means* of Diviſion? Ought not the Diſſenters to

ſuſpect her Integrity, in refuſing a good Underſtanding, in the very way that muſt ſave thoſe ſhe would gain? And ſince ſhe is ſure They won't turn *Papiſts*, how does ſhe loſe Them in that way, in which ſhe can only pretend to have Them, *viz.* as *Proteſtants*; for otherwiſe they will as little conform to her. And if the *Price* of her Good Will muſt be to uphold the *Brand* of her Conduct, and *Means* of their own Ruin. It is what they can never give, and ſhe in Conſcience and Wiſdom ſhould never ask.

And what ever is ſuggeſted, it is too unwarily thought of any that the Diſſenters intend only their ſecurity againſt the Power of the Church of *England*, *'tis againſt the Spirit of Perſecution in all Churches, they muſt all ſeek to be ſafe*; that, which ſo ever of them happens to have the Government, the Reſt may be *ſecure* under it; Elſe, 'tis but ſhutting one Door againſt an Evil, *and opening another to let it in.* If ſhe will pleaſe but to tell me *what way* ſhe can ſecure the Diſſenters againſt her own *Ambition*, when one of her Communion Aſcends the Throne, I will undertake to tell her, *how* ſhe and the Diſſenters may be *ſafe* from

from the Danger of Popery in the Raign of a King of that Religion. For the *Spirit of Perſecution* being the *ſame* every *where*, it muſt have the *ſame Remedy*. She can't think we ought to *Truſt* Her, That won't *Truſt*, and that makes Truſting *Dangerous*.

And what-ever the Gentlemen of her Communion are pleas'd to ſuggeſt of the preſent *good underſtanding*, between the Roman Catholicks and Diſſenters, to blow their Intereſt with the People, Men muſt be greatly Impos'd upon, to Imagine the preſent *Affinity* between them, can regard any thing but their common Safety; and *common Danger* makes that every where, *reaſonable and neceſſary*. If this were not the caſe, I ſhould hold my ſelf concern'd to act another Part in this affair; And if this be the caſe, it plainly anſwers all the Jealouſie and Objection of the Times: For 'tis as lawful for them to *joyn* in this as in any Society of Trade, and more requiſite. I ſay, It can be no juſt Reflection from the Church of *England*, when they muſt be ill read, that don't know, that ſhe is the *Halfway Houſe* between the two Diſſenters, and

that the Proteſtant Diſſenter is a refine upon her, as ſhe is upon the Church of *Rome*. So that tho it be true that they *joyn* with the Papiſts, it is as true that it is *not with Popery*, but for *Liberty*, which the ſame Author tells us, is ſuch a *contradiction to Infallibility*, which is his *dangerous Popery*: Tho I muſt tell him, I think it a greater to Perſecute People upon a profeſſed *fallible* Principle. Let it ſatisfie that Gentleman and his Followers, whoſe main drift, is *Rallying* Diſſenters for relying on *Romiſh Faith* for ſecurity, that tho They joyn with *Roman Catholicks* to get Liberty, They will *truſt* them, and every body elſe, as little as they can to keep it, and *leſs joyn* with them to take it away. On the contrary, in caſe of ſuch attempts, 'tis reaſonable to believe they will ſooner *unite* with the Church of *England* to Preſerve, what they now ſo freely oppoſe Her to obtain. But it may be ſaid, *It will then be too late, and therefore now too dangerous, to give that Intereſt, in the mean while, ſo much Play and Progreſs.* This were an Hazard indeed, if the *Roman Catholicks* could do any thing then, that they cannot do now, or if the Diſſenters were to be leſs Numerous, leſs

Senſible

Senſible, or leſs Free and Able to reſent it. I cannot ſee how the *Roman Catholicks* can be in a better Condition to Hurt us, if the Diſſenters are not in a worſe to Help us. Certainly their numbers muſt have the odds.

On the other hand, the Diſſenters, under Perſecution, can do nothing, and while the Liberty is Precarious they dare do nothing; ſo that the way to render them uſeful to oppoſe the Violence fear'd, is to make their Intereſt in the Liberty *Legal*, as well as that a *Legal Freedom* is the beſt way to prevent all violent attempts in the *Roman Catholicks*. For when the Law ſupports their Joynt Intereſt, that will naturally *joyn* and *lead* Them to maintain the Law that defends it. I ſhall be heartily ſorry if the Church of *England* cannot tell how to venture her ſelf with thoſe under Liberty, who have liv'd ſo well with her *under her Perſecution*: Tho, as I have ſaid before, there is *no Truſt* in the caſe, ſince, therefore, a *Law* is deſired, that we may not rely on ſo *frail* a Security: And where a Law puts all Parties upon *one Bottom*, I cannot help thinking all Parties are oblig'd in *Example* and *Intereſt* carefully to preſerve it. And if we would but reflect how

how much more *Law* in all Ages hath preſerv'd Mankind then *Force*, we would leſs argue the Inſecurity of Law; but 'tis utterly Inconſiſtant at a time, when we plead the *Almightineſs* of preſent Laws for our Safety.

In ſhort, If ſhe only ſeeks to be Safe, let her not refuſe the Security that Others are *ready to take*, and if ſhe deſires more, 'tis an unhappy Inſtance of her love to Dominion, and they can never be ſafe that Grant it. Let her not then be *Fond* but *Wiſe*; and remember, that the *Security* is not deſtroy'd, but *Chang'd* and *Enlarg'd*: For from a *Single*, it becomes *more then a Double Bond*, and They that reject ſuch a Security, cannot be thought *ſincere* in asking of any. But, be that as it will, If we can but once ſee A MAGNA CHARTA *for Liberty of Conſcience*, Eſtabliſh'd in theſe Kingdoms by the wiſdom of a Parliament, They will, be very *Hardy*, indeed, who Dare, at any time, Attempt to *Shake It*, That has the *Jealouſie*, *Union* and *Reſolution of ſo many Great, Serious and Wealthy Intereſts to ſupport It*.

I will not ſay, *what* this *Charter* ſhall be, for it does not become me, nor is it yet time; but I dare

dare ſay, that it may be, and in ſuch terms too, as all Parties ſhall find their *Account*: And unleſs that be the reaſon why any will oppoſe it, It can neither miſs to be, nor to be kept; and if ſuch a Diſſenter be to be found to this common Good, his oppoſition makes him a *Common Enemy*. I ſay, nothing can oppoſe ſuch a *Charter*, but State Religion, and that which can Govern the reſt, will Hazard the reſt. A National Religion by Law, where it is not ſo by Number and Inclination, is a *National Nuſance*; for it will ever be matter of Strife. If ſhe ſeeks to be Safe, but not to Rule, that which preſerves the reſt, *ſecures her*; If more is expected, 'tis leſs reaſonable, in my opinion, for the Reſt to Sacrifice their Safety to her Authority, then only to ſubject her Rule to their Security.

FINIS.